

In re ) Fair Hearing No. 20,494  
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Appeal of )

The petitioner appeals a decision by the Department for Children and Families, Health Access Eligibility Unit (HAEU) denying her application for Vermont Health Access Program (VHAP) benefits. The issue is whether the petitioner qualifies for VHAP in light of her status as a full-time college student.

1. The petitioner applied for VHAP on July 31, 2006. Initially, on August 8, 2006 the Department granted the application. However, on August 10, 2006 the Department sent the petitioner a "corrected notice" stating that her VHAP coverage would end on August 31, 2006 because of her status as a full-time college student.<sup>1</sup>

2. The petitioner does not dispute that as of September 1, 2006 she was enrolled as a full-time student in a post-

<sup>1</sup> This matter was continued for several months after the Department offered to verify the precise nature of the petitioner's classroom activities directly through the college.

baccalaureate teaching degree program at Castleton State College.

3. In addition to 11 hours a week of regular coursework, the petitioner spends 27.5 hours a week in partially-credited "field study" that consists of observing third and fourth grade public school classes. The petitioner also volunteers one hour a week at a program called "America Reads".

4. The petitioner receives no pay for any of her course or classroom work. Nor does the college consider any of her classroom work to constitute "work study" in exchange for tuition credit. The petitioner maintains that her student activities leave her no time to obtain any other employment.

5. The petitioner does not maintain that she is "employed" at any of the schools or reading programs she is participating in. She concedes that her classroom observations are done solely under the auspices of the college, and that she has no employment relationship with the schools where the classrooms are located.

ORDER

The Department's decision is affirmed.

REASONS

The pertinent VHAP regulations include the following:

a. Applicability

To be eligible for VHAP, a student must meet the requirements of section b. below unless he/she is exempt from these requirements based on at least one of the following criteria:

1. 50 years old or older,
2. disabled,
3. attending high school,
4. participating in an on-the-job training program,
5. enrolled full time in a school or training program, excluding post-secondary institutions of higher education, or
6. enrolled less than half time in a post-secondary institution of higher education.

. . .

High school and on-the-job training programs are not considered institutions of higher education. A person is considered a participant in an on-the-job training program only while being trained by the employer. When a person is no longer being trained by the employer, he/she is no longer exempt from the requirements of section b. below.

. . .

b. Eligibility Requirements

1. To be eligible to participate in the VHAP program, any student not exempt under section

a. above shall meet at least one of the following criteria:

- i. Is employed for a minimum of 20 hours per week and receives cash payment for such employment or is self-employed for a minimum of 20 hours per week with weekly earnings at least equal to the federal minimum wage multiplied by 20 hours.
- ii. Participates in a state-financed or federally financed work-study program during the regular school year. To qualify under this provision, a student must be approved for a work-study program at the time of application and must anticipate starting a job within two months after the date of application. A student meets this criterion until the student stops working. If a student stops working because funding for the work study runs out, the student shall continue to meet this criterion for no more than two months.

W.A.M. § 4001.6.

The petitioner admits that she does not meet criteria 1-3 and 5-6 of paragraph (a), above. Based on the above findings, it also must be concluded that she does not meet No. 4, in that her current classroom observation time does not constitute an "on-the-job training program" as contemplated by the above regulation.<sup>2</sup>

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<sup>2</sup> The petitioner maintains that beginning next semester (2007) her coursework will include actual "student teaching" at a public school. Although it is unclear whether this change alone would make her eligible, the petitioner was advised to reapply for VHAP at that time.

It also must be concluded that the petitioner's classroom observation time, for which she receives course credit, and which is not otherwise remunerative, does not constitute "work study" within the meaning of paragraph (b)(ii), above. Inasmuch as the Department's decision in this matter is in accord with the pertinent regulations, the Board is bound by law to affirm. 3 V.S.A. § 3091(d), Fair Hearing Rule No. 17.

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